

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6287 OF 2015

DEEPAK MARUTI ANDHALE
VERSUS
THE ADMINISTRATOR AGRICULTURE PRODUCE MARKET
COMMITTEE AND OTHERS

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Advocate for petitioner : Mr. G. M. Jadhav & B. N. Palve
Advocate for respondent no. 1 : Mr. A. D. Shinde
Advocate for respondent no. 2 : Mr. S. S. Thombre
AGP for respondent nos. 3, 5 and 6 : Mr. K. G. Patil
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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 30th JUNE, 2015

P.C. :-

1. The petitioner challenges the interim order dated 11.09.2013 granting prayer clause "F" in writ petition no. 7297/2013 and further seeks directions to continue the petitioner in service from 18.09.2013 as Secretary of respondent no. 1. Mr. Jadhav, the learned counsel for the petitioner strenuously contends that respondent no. 2 herein has filed writ petition no. 7297/2013 by suppressing material facts. The present petitioner had already joined with the respondent Agriculture Produce Market Committee as Secretary pursuant to the valid appointment order dated 27.08.2013. According to the learned counsel, this fact was suppressed by respondent no. 2 in the said writ petition and this Court stayed the appointment in favour of the present petitioner. The learned counsel submits that now, that the term of respondent no. 2 has come to an end, the respondent Agriculture Produce Market Committee be directed to give appointment to the petitioner. According to the learned counsel,

even the petitioner has drawn salary for 17 days. The documents on record clearly establish the said fact. The learned counsel further submits that the appointment of petitioner would stand protected by virtue of the order dated 21.10.2013 passed in writ petition no. 7720/2013 at the Principal Seat at Bombay. The learned counsel submits that name of the petitioner appears in the panel of Secretaries prepared by the Federation.

2. Mr. Shinde, the learned counsel for respondent no. 1 A.P.M.C., submits that as name of the petitioner appeared in the panel of Secretaries, the petitioner was given a letter asking him to participate in the selection process. However, the petitioner declined. The learned counsel submits that the petitioner was appointed by the Federation which has no power in view of proviso to Section 35 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. The learned counsel submits that the interim order passed by this Court is prior to the interim orders passed at the Principal Seat at Bombay.

3. We have also heard the learned AGP and Mr. Thombre.

4. It is not disputed that the petitioner was given appointment vide letter dated 27.08.2013 by the Federation. At the Principal Seat at Bombay, it has been observed vide order dated 21.10.2013 in writ petition no. 7720/2013 that the Federation does not have power to appoint secretaries and the power vests with the A.P.M.C. And protected the appointment of 51 Secretaries. The said appointments were made subject to the decision of the writ petition. Prior to the said order being passed, this Court has stayed the order of appointment of the petitioner herein and allowed the present respondent no. 2 to continue as Secretary. The petitioner also did

not move this Court for more that 1½ years after the passing of the interim order by this Court in favour of respondent no. 2. Admittedly, appointment of the petitioner is not made by the A.P.M.C.. The petitioner is not working as Secretary after the interim order passed by this Court i.e. for more that 1½ years. The respondent A.P.M.C. has also undertaken the selection process. The probation period has also not been completed as per the appointment order. Even the training has not been conducted as has been laid down in the appointment order. May be, the petitioner is not at fault, however, considering the fact that the petitioner was appointed by the Federation which, *prima facie*, held to be improper and the power vests with the A.P.M.C. and further that the petitioner was not working as Secretary for more that 1½ years, it would not be possible to accept the prayers made by the petitioner in the present writ petition.

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5. The writ petition as such is disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

aaa/